



Documenting Brooklyn | Fighting Gentrification
Tell your story: www.beforeitsgone.co #BeforeItsGone

Our Homes Are Not For Sale Online Resource Guide for Homeowners Fighting Displacement & Predatory Developers

<https://bit.ly/2Gmmale>

as of January 25th, 2020

This online resource was first developed by Brooklyn homeowners at an [#OurHomesAreNotforSale Strategy Session](#) held on May 5th 2019. We welcome additional resources. To join the #OurHomesAreNotforSale Campaign, please contact Equality for Flatbush at B4G@equalityforflatbush.org or 646 820-6039

#OurHomesAreNotforSale is a component of BEFORE IT'S GONE // TAKE IT BACK: Documenting Brooklyn - Fighting Gentrification (B4G) Brooklyn-wide anti-gentrification campaign of Equality for Flatbush www.equalityforflatbush.org or www.beforeitsgone.co

When you see construction work on your or your neighbor's property:

- For permit info on the developer's property profile, check the [Department of Buildings \(DOB\)](#) Contact info provided below
- If **no permits are prominently posted** on the site or the DOB website
 - Contact Benjamin Colombo: becolombo@buildings.nyc.go
 - AND call 311 & SAY "THERE IS A STRUCTURAL OR SITE SAFETY ISSUE"
 - Contact [DOB](#) Construction Safety Enforcement Unit (CSE)
- **Keep your own log and a file of all documents** (city agents frequently maintain poor documentation). Include your case numbers and complaint numbers, etc. in your documentation.
- **Go to Environmental Control Board hearings involving your property.** You can find them with the [DOB](#)

If a developer is excavating nearby or approaches you to encroach on your property

- Consult a [Construction Law Attorney](#) and a [Structural Engineer](#) (Contacts provided below)

- By law you cannot simply refuse temporary access to your property, but **you are entitled to a party wall or license agreement**
- **Do not sign any agreement provided by the developer** without consulting your own attorney
- Most agreements **require that developers pay for your lawyer as well as a consulting engineer** who will document the condition of your house before construction next door begins.
- Notify [DOB](#) and call 311 if the developer never asked to negotiate an agreement and is encroaching!
- Make sure your attorney demands to see the developer's **liability insurance policy**. [DOB](#) does not review the policies, only the certificates, and though it is contrary to regulations, these policies may exclude "...foundation damage due to *earth movement*, whether from manmade or natural causes." Your homeowners policy will also exclude this coverage, so **if the developer excavates and damages your foundation you may not be covered**.
- Most agreements **include payments to you** if they are encroaching on your property with fencing, scaffolding, etc., called a *monthly license fee*.
- **Plans must be filed before they get a permit to start work**. Look up the property on [DOB](#) to check! <http://a810-bisweb.nyc.gov/bisweb/bispi00.jsp> PLACE THE HOUSE NUMBER AND BOROUGH IN THE FIELDS (GO TO JOBS) LOOK UP RECENT APPLICATIONS.

DIRECT ACTION is another tool, but if you are in litigation, **consult your lawyer before going to the Press** because it may compromise your case.

Third Party Transfer Program :

Attorney Yolande Nicholson :(347).707-1212 is the main lawyer representing homeowners in class action suit against the City of New York

- **This lawsuit seeks restoration of property back to owners.**
- Started in 1996, the Third Party Transfer program transfers ownership of multi-family properties to a city-vetted sponsor to renovate the property. Once those renovations are complete, the properties are transferred once more to a property manager (private or non/for-profit).
- Once in their ownership, the properties must be affordable to households with a 120% the Area Median Income (AMI) or less. Properties with \$3000 or more in liens per apartment are eligible for the program. All Third Party Transfer properties are currently managed by Neighborhood Restore, a Housing Development Fund Corporation

Cooperative. To receive the benefit of lower real estate taxes, these organizations must rent their properties to families making 165% of the AMI and below.

- A class action suit against the city for wrongful takings of property is underway by a lead team of attorneys. For more information about how to gain representation call a member of this team: **Attorney Yolande Nicholson** : (347).707-1212

Third Party Transfer Court Discussion :

<https://law.justia.com/cases/new-york/other-courts/2019/2019-ny-slip-op-50434-u.html>

“The City has particularly targeted properties that are owned by minorities.” Excerpts

- Property owners in Brooklyn who lost title to their property as a result of City Tax Foreclosure proceedings may be entitled to regain ownership thanks to a recent decision by Kings County Supreme Court Justice Partnow, dated March 29, 2019. In Rem Tax Foreclosure Action No. 53 Borough of Brooklyn 2019 NY Slip Op 50434(U), Justice Partnow granted the affected property owners’ request to vacate the Judgment of Foreclosure; set aside the transfer of title; and restore title to the property owners. Justice Partnow found that the City improperly included the properties at issue in the Third Party Transfer Program despite the fact these properties were not distressed. Justice Partnow rejected the City’s contention that the properties should be included in the Third Party Program even if they are not distressed as long as they were on the same block as another property fitting the “distressed” designation. In searing language, Justice Partnow said that permitting the City to take properties from their owners in this manner would not only be “arbitrary” but would result in disparate treatment for property owners based upon what block they lived without regard to whether or not their own property was distressed. “Such unequal treatment raises equal protection concerns (see, US Const. 14th Amend, § 1 [providing that ‘(n)o State shall make or enforce any law shall ... deny to any person within its jurisdiction the equal protection of the laws’]; NY Const., art 1, § 11 [providing that ‘(n)o person shall be denied the equal protection of the laws of this state or any subdivision thereof’]”. See decision and order, Exhibit A at pp. 16-18.
- Justice Partnow also held that the Court had the inherent authority to vacate its own Judgment of Foreclosure “for sufficient reason in the interest of substantial justice.” Id. at p. 38. The Court found that there was sufficient reason to vacate the default judgment in this case, finding that the City’s application of the Third party Transfer Program in this case “undermines the Third Party Transfer Program’s beneficial intent and distorts its purpose so as to work a grave injustice...” Id. at pp 37-38.
- “I strongly believe that Justice Partnow’s Decision should be widely disseminated throughout Brooklyn, and especially in communities of color, where the Third Party Transfer Program/In Rem Foreclosure has had the greatest impact. Justice Partnow is one of two Judges in Kings County Supreme Court hearing foreclosure cases. Thus, it is highly likely that homeowners who have lost their homes through the City’s Third Party Transfer Program/In Rem Foreclosure can seek to [benefit from Justice Partnow’s decision.](#)”

Anti-gentrification Resource List

www.beforeitsgone.co

www.equalityforflatbush.org

Department of Finance

ACRIS Website to view information about a developer's property or your own

<https://www1.nyc.gov/site/finance/taxes/property.page>

To register your home for alerts of deed fraud or any filings at your property address:

<https://a836-acrissds.nyc.gov/NRD/>

Department of Buildings

You can check the developer's property page for their new filings, the status of complaints and violations. You can also check your own property profile page for fraudulent filings on your property. Section 33 of the Building code (can be found on DOB website)

- commissioner: Ira Gluckman [You can request a meeting with him. Recommend you bring your engineer!]
- website: <https://www1.nyc.gov/site/buildings/index.page>
- Brooklyn address: Municipal Building in Downtown Brooklyn
- Manhattan address: Headquarters are at 2 Lafayette Street in Lower Manhattan
- Meeting times: Tuesdays, 4:00--7:00 DOB Homeowners Meetings at the Municipal Building
- Ernesto Donedal of the DOB has been identified as being the signers of several work orders for new construction in Northern Brooklyn

Recommended Attorneys (list in development)

Construction /Adjacent Property Damage

Melissa Billig

(212) 907-9651

(Building and Design)

Bradley Zelenitz, Esq.
 Zelenitz, Shapiro & D'agostino, P.C.
 Mobile (718) 523-1111
 Work Fax (718) 725-9606
 Home BZelenitz@ZSDLaw.cim
 Home
 138-44 Queens Blvd
 Briarwood, NY 11435
 (recommended by Catherine Harper)

Third Party Transfer

Serge Joseph (Part of the litigation against TPT)
 Himmelstein, McConnell, Gribben, Donoghue & Joseph LLP.
 15 Maiden Lane - 17th Floor New York, NY 10038
 Web site: www.hmgdjlaw.com
 New York, NY 10038
 Web site: www.hmgdjlaw.com
 Tel: (212) 349-3000
 Fax: (212) 587-0744

Edward Harold King, PLLC. (Provides workshops on TPT)
 338 Atlantic Avenue-Suite 204
 Brooklyn, NY, 11201 +1 (917) 592-0864

Recommended Engineers (list in development)

John Nakrosis
 (646) 526-4569
 (Expert on impact of development on historic buildings)

Old Structures Engineering
 Website: oldstructures.nyc
 90 Broad St
 Suite 1501
 NY, NY 10004

Mr. Karol Zdancewicz - Pres
 KZ Engineering, PC Professional & Structural Engineering
 (201) 290-8296 kzengineeringpc@gmail.com
 116 Nassau Street - Suite 808
 New York, NY 10038
 (recommended by Catherine Harper)

Recommended Judges (list in development)

Wayne Saitta (Brooklyn Supreme Court)

Predatory Developers

436 Lafayette Development

Maz Group

Emma Management / David Snir

Slate/Adam America/Silver Store

Ranco

Brookland

Isayko Aronov

Joel Schwartz

Ryan Garobo (fake name)

Abraham/Joe Mashieh USA Development LLC , formerly Ozone Development

John Hussain/ Champion Construction affiliated with/ Fuy Smith

Silver Shore

Eli Mashieh, West Development

Further Reading

Articles

[Gaining Access to Neighboring Properties for Protection During Construction](#) by Brian G. Lustbader

Books

Zoned Out! Race Displacement and City Planning in New York City, Tom Angotti, and Sylvia Morse, editors

Case Precedent

North 7-8 Investors, LLC. v. Mark A. Newgarden (Sets precedent..settling pro homeowner decision)

Citizens for Responsible Neighborhood Planning

Link to more detailed document for neighbors to construction:

<http://crnpofbrooklyn.org/index.php/did-you-know/>

